

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

FIRST DATA CORPORATION,

and,

CONCORD EFS, INC.,

Defendants.

CASE NUMBER: 1:03CV02169 (RMC)

**REPORT AND CERTIFICATION OF COMPLIANCE WITH
TUNNEY ACT REQUIREMENTS ON BEHALF OF DEFENDANT
FIRST DATA CORPORATION**

Pursuant to Section 2(g) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(g) (the "Tunney Act"), Defendant First Data Corporation ("First Data"), by its attorneys, hereby submits the following description and certification of all written or oral communications by or on behalf of First Data with any officer or employee of the United States concerning or relevant to the proposed Final Judgment filed in this action on December 15, 2003. In accordance with Section 2(g), this description excludes any communications by outside counsel alone with employees of the Department of Justice alone.

1. On December 11, 2003, Charles T. Fote, President and Chief Executive Officer, and Michael T. Whealy, Executive Vice President and General Counsel of First Data Corporation, met with R. Hewitt Pate, Assistant Attorney General for Antitrust, and Deborah Majoras, Deputy

Assistant Attorney General, to propose an alternative resolution for this matter that was not ultimately adopted in the proposed Final Judgment. Later in the day, Mr. Fote spoke again to Mr. Pate by telephone concerning the proposed Final Judgment.

2. On December 12, 2003, Mr. Fote spoke again with Mr. Pate by telephone regarding the proposed Final Judgment.

3. On December 13, 2003, David R. Money, General Counsel, Merchant Segment, First Data Corporation, discussed the proposed Final Judgment by telephone with J. Robert Kramer, II, Director of Operations for the Antitrust Division, and Leslie C. Overton, Counsel for the Assistant Attorney General.

5. On December 14, 2003, Mr. Fote spoke again with Mr. Pate by telephone regarding the proposed Final Judgment.

Defendant First Data hereby certifies that this description of communications by or on behalf of First Data includes all of the communications about which First Data knows or should have known, and that with this filing, First Data has satisfied the requirements of Section 2(g).

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Executed on December 23, 2003.

Respectfully submitted,

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Dated: December 23, 2003

Attorney for First Data Corporation